

**CITY OF ROCKVILLE PLANNING DIVISION  
STAFF REPORT**

September 25, 2003

**SUBJECT:**

Variance Application APP2003-00810

Applicant: Donald P. Scherr  
1917 Lewis Avenue  
Rockville, Maryland 20851

Property Location: 1917 Lewis Avenue

Board of Appeals Public Hearing Date: October 4, 2003

**REQUEST:**

The applicant seeks an eleven-foot variance from the requirement that an accessory building be located in the rear yard in order to construct an addition.

**STAFF RECOMMENDATION:**

Approval, subject to the following:

1. That the addition be constructed in substantial conformance with the submitted plans and with materials compatible with the existing home.
2. The applicant must submit an Affidavit of Posting certifying that the public hearing sign has been posted on the property in accordance with City requirements.

**ANALYSIS:**

**Project Proposal**

The applicant would like to construct a sixteen-foot deep by thirty-foot wide one-story addition onto the back of the existing house.

**Property Description and Background**

The subject property is located in the Rockland subdivision, where it is zoned R-0, One-Family Detached Residential. It is a rectangular lot that contains 7,200 square feet of land. The property is improved with a single-family dwelling and two accessory buildings. The lot is relatively flat in the front yard and for a portion of the rear yard but towards the back slopes upwards into a berm at the rear property line. The berm seems to

have been placed along the back of the properties along this section of Lewis Avenue to provide a separation between the properties and the railroad and Metro tracks behind.

### **Requested Variance**

Section 25-311 requires that accessory buildings be placed within the rear yard. Section 25-1 defines rear yard as the “space extending across the full width of the lot between the rear line of the lot and nearest line of the building, porch or projection thereof.” Since the existing accessory building is setback five feet from the house and the proposed addition is intended to be sixteen feet deep, a variance of eleven feet is needed from its rear yard requirement.

### **Applicable Sections of the Zoning Ordinance**

Section 25-1 defines variance as a modification only of the density, bulk or area requirements, where such modification will not be contrary to the public interest and, owing to conditions unique to the property and not the result of any action taken by the applicant, of which literal enforcement of the ordinance would result in practical difficulty.

### **Staff Analysis and Recommendation**

The following are the findings that must be made in order for the Board to approve a variance as well as staff's observations.

1. **The variance as requested would not be contrary to the public interest.** The property could accommodate an accessory building and addition of this size without the need for a variance. Since this is only a matter of a different arrangement in the location of the improvements, this proposal cannot be found to be contrary to the public interest.
2. **The variance is requested owing to conditions peculiar to the property and not the result of any action taken by the applicant.** The accessory building was placed on the property by a former owner. The grade appears to have dictated the location of the accessory building. It seems to have been placed as far back on the level part of the backyard as possible before the grade begins to rise towards the back of the lot. The variance is, therefore, requested owing to condition peculiar to the property and it is not the result of any action taken by the applicant.
3. **A literal enforcement of the Ordinance will result in practical difficulty.** The house is small. Many people opt to place second floor additions. In this case, the applicant is looking for one-level living and would like to add a dining room and master bedroom with walk-in closet. Without a variance, the accessory building would have to be moved with considerable cost or demolished. Losing the accessory building or moving are resulting practical difficulties on a lot that could

easily support both structures if the grade were not a factor. As such, a literal enforcement of the Ordinance would result in practical difficulty.

Based on the above, staff recommends approval of Variance Application APP2003-00810, subject to the conditions noted.

#### **NOTIFICATION**

Notices about the public hearing were sent to 543 residences, including those that are legally required.

Attachments